China and the 'Responsibility to Protect': the Implications of the Libyan Intervention

Andrew GARWOOD-GOWERS*
Queensland University of Technology, Australia
a.garwood-gowers@qut.edu.au

Abstract

The emerging principle of a "responsibility to protect" (R2P) presents a direct challenge to China's traditional emphasis on the twin principles of non-intervention in the domestic affairs of other states and non-use of military force. This paper considers the evolution of China's relationship with R2P over the past ten years. In particular, it examines how China engaged with R2P during the recent Libyan crisis, and considers what impact this conflict may have first, on Chinese attitudes to R2P, and second, on the future development and implementation of the doctrine itself. This paper argues that China's decision to allow the passage of Security Council resolution 1973, authorising force in Libya, was shaped by an unusual set of political and factual circumstances, and should not be viewed as evidence of a dramatic shift in Chinese attitudes towards R2P. More broadly, controversy over the scope of NATO's military action in Libya has raised questions about R2P's legitimacy, which have contributed to a lack of timely international action in Syria. In the short term at least, this post-Libya backlash against R2P is likely to constrain the Security Council's ability to respond decisively to other civilian protection situations.

On 17 March 2011, almost a decade after the International Commission on Intervention and State Sovereignty (ICISS) outlined the original notion of a "responsibility to protect" (R2P),[1] the UN Security Council passed resolution 1973 authorising the use of military force against the Libyan regime.[2] This historic resolution - the first in which the UN has authorised the use of force for civilian protection purposes without the consent of the "host" state – came as something of a surprise. Many commentators had expected China and Russia to veto any proposal for military action.[3] While supporters of R2P immediately hailed resolution 1973 as a significant step towards the consolidation of R2P's status as a new international norm, political consensus on civilian protection in Libya quickly dissolved as disagreements emerged within the Security

---

*BA, LLB (Hons) (Qld), LLM (Cantab). Associate Lecturer, Queensland University of Technology, Brisbane, Australia. This article was finished in December 2011. Subsequent developments up to 27 March 2012 have, as far as possible, been included.

[1] International Commission on Intervention and State Sovereignty (ICISS), "The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty" (2001), online: ICISS <http://responsibilitytoprotect.org/ICISS%20Report.pdf>.

[2] See SC Res. 1973, UN Doc. S/RES/1973 (2011).

[3] See, for example, Alex J. BELLAMY and Paul WILLIAMS, "The new politics of protection? Cote d'Ivoire, Libya and the responsibility to protect" (2011) 87 International Affairs 825 at 840; Ramesh THAKUR, "Libya: The First Stand or the Last Post for the Responsibility to Protect?" *e-International Relations* (13 March 2011), online: e-International Relations <http://www.e-ir.info/?p=7646>.; Andrew GARWOOD-GOWERS, "Libya and the international community's 'responsibility to protect'" *Online Opinion* (25 February 2011), online: Online Opinion <http://www.onlineopinion.com.au/view.asp?article=11676>.

Council over the scope of military action permitted by the resolution.[4] Long-standing fears among China and other non-Western states that R2P could be used as a pretext for regime change returned to the fore as the legitimacy of NATO's military action in Libya was called into question. This "blow-back" effect from Libya has been evident in the international community's subsequent inability to reach consensus over civilian protection issues in Syria.[5] These developments raise important questions as to whether the Libyan intervention will consolidate R2P's normative status or lead to a weakening of support for the principle.

As a veto-holding permanent member of the Security Council, China plays a vital role in decisions relating to international peace and security, including those involving civilian protection and R2P. However, R2P presents a direct challenge to China's traditional foreign policy emphasis on the twin principles of non-intervention in the domestic affairs of other states and non-use of military force.[6] Despite moving from initial criticism of R2P towards cautious endorsement of a conservative interpretation of the concept, China has remained uncomfortable with R2P's potential to lead to non-consensual military intervention.[7] In that respect, at first glance China's decision not to block resolution 1973 might appear to indicate a departure from its traditional foreign policy principles. Closer inspection of the Libyan crisis, however, reveals a more complex set of factors at play.

This paper explores the evolution of China's relationship with R2P over the past ten years. In particular, it examines how China engaged with R2P in the recent Libyan crisis, and what impact this conflict may have first, on Chinese attitudes to R2P, and second, on the future development and implementation of the principle itself. It argues that China's decision to allow the passage of resolution 1973 was shaped by an unusual set of political and factual considerations, and should not be interpreted as evidence of a dramatic shift in Chinese attitudes towards R2P. More broadly, concerns over the way military force has been used in Libya have caused a backlash against R2P, which has undermined the international community's ability to

---

[4] Thomas G. WEISS, "RtoP Alive and Well after Libya" (2011) 25 Ethics and International Affairs 1 at 1.
[5] See part V of this article for discussion of the Chinese and Russian vetoes of two draft Security Council resolutions relating to Syria on 4 October 2011 and 4 February 2012 respectively.
[6] See *Charter of the United Nations*, 26 June 1945, 1 U.N.T.S. XVI (entered into force 24 October 1945) [*UN Charter*]. The principle of non-intervention is contained in Art 2(7). The prohibition on the use of force is contained in Art 2(4).
[7] For discussion of the evolution of China's position on R2P see part II of this article.

respond to other civilian protection crises connected to the so-called "Arab Spring". This suggests that the Libyan intervention may, in the short term at least, lead to a softening of R2P's normative status.

I.   R2P AND ITS EVOLUTION
A. R2P as a Concept

The concept of R2P evolved out of dismay at the international community's failure to prevent mass atrocity crimes in Rwanda and elsewhere in the 1990s. It represents a re-conceptualization of the relationship between state sovereignty and human rights, in which sovereignty is viewed "not as an absolute term of authority but as a kind of responsibility".[8] In the original 2001 ICISS report, R2P was conceived as having three elements: the responsibility to prevent a population from suffering serious harm, the responsibility to react if such harm occurs, and the responsibility to rebuild after an intervention.[9] While the primary responsibility to protect lay with the host state, if that state perpetrated "serious harm" to a population, or was unwilling or unable to stop such violence, the international community assumed a responsibility to protect.[10] "Serious harm" was defined as actual or imminent "large scale of life" or "large scale ethnic cleansing'".[11] Military intervention for humanitarian purposes was envisaged as an exceptional measure which should be considered in the light of six criteria: just cause, right intention, last resort, right authority, proportional means, and reasonable prospects of success.[12] Although the ICISS report designated the Security Council as the most appropriate body for authorising military action for human protection purposes, it suggested that the General Assembly and regional or sub-regional organisations might provide alternative mechanisms for authorising force if the Security Council was dead-locked.[13]

In its current form, as distinct from the earlier 2001 conception, R2P consists of three mutually reinforcing pillars derived from the 2005 *World Summit Outcome Document*, and

---

[8] Ramesh THAKUR, *The United Nations, Peace and Security* (Cambridge: Cambridge University Press, 2006) at 251.
[9] ICISS, *supra* note 1 at xi.
[10] *Ibid*.
[11] *Ibid*., at xii.
[12] *Ibid*.
[13] *Ibid.*, at xiii.

subsequently outlined in the UN Secretary-General's 2009 report, *Implementing the Responsibility to Protect.*[14] The first is that states have an obligation to protect their populations from mass atrocity crimes (genocide, war crimes, ethnic cleansing, and crimes against humanity).[15] The second pillar stipulates that the international community should assist states in fulfilling their pillar one obligations. Where states are "manifestly failing" to protect their populations the third pillar provides that the international community has a responsibility to respond in a "timely and decisive manner".[16] Action under the third pillar can include non-coercive means such as diplomacy and humanitarian assistance, and, as a last resort, coercive measures involving the use of force.

It is generally recognised that R2P is based on existing principles of international law and does not add anything new in the way of *legal* duties.[17] R2P can be seen primarily as a political or moral commitment to implementing established (pillar one and two) duties created in treaty law and customary international law.[18] Contrary to the original ICISS report, the current notion of military action under R2P's third pillar is permitted only in accordance with existing UN Charter Chapter VII procedures governing the Security Council's authorisation of the use of force. Military intervention is a course of action that is available to the Security Council in circumstances where states are "manifestly failing" to protect their populations. The third pillar is yet to reach the status of a *legal* duty requiring positive action to protect civilians against mass atrocity crimes, although with the evolution of state practice in the future it may crystallise into

---

[14] *2005 World Summit Outcome Document*, GA Res. 60/1, UN Doc. A/RES/60/1 (2005), at paras 138, 139; *Implementing the Responsibility to Protect*, Report of the Secretary-General, UN Doc A/63/677 (2009).

[15] For discussion of the legal definitions of the four crimes see David SCHEFFER, "Atrocity Crimes Framing the Responsibility to Protect" (2009) 40 Case Western Journal of International Law 111.

[16] *World Summit Outcome Document*, *supra* note 14 at para. 139.

[17] See for example, Alex J. BELLAMY and Ruben REIKE, "The Responsibility to Protect and International Law" (2010) 2 Global Responsibility to Protect 267; Carsten STAHN, "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?" (2007) 101 American Journal of International Law 99. Note that Orford argues that R2P "should be understood as normative in the former sense of providing legal authorisation for certain kinds of activities." However, this is a claim that R2P confers legal *powers*, rather than an assertion that it imposes legal *duties*. See Anne ORFORD, "From Promise to Practice? The Legal Significance of the Responsibility to Protect Concept" (2011) 3 Global Responsibility to Protect 400 at 421.

[18] For example, the *Genocide Convention* has been interpreted by the International Court of Justice as imposing a legal duty on a state to take peaceful measures to prevent genocide in circumstances where that state has relevant information and capacity to take such steps. See *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v Serbia and Montenegro)* Judgment of 26 February 2007, [2007] I.C.J. Rep. 43.

such a duty.[19] At present, however, the international community's "responsibility" to respond to such circumstances exists only on a political or moral level.

B. R2P's Evolution

In historical terms R2P's reception into the international system has been rapid, though aspects of the concept remain contested. The most controversial element has been the military force dimension. From the outset, China and other non-Western states were suspicious of this component of the new principle, fearing that it might be used as a tool of Western imperialism.[20] Conscious of the need to assuage such fears and build support for R2P, UN officials adopted a diplomatic strategy of emphasising the more palatable elements of the concept – namely, prevention and state assistance. This approach, coupled with R2P sceptics' ongoing resistance to the military dimension of R2P, led to several modifications of the original ICISS conception of R2P. First, the military force dimension was placed exclusively under Security Council control, closing off the ICISS's suggestion that alternative authorisation mechanisms might be utilised if the Security Council was unable to agree. Second, the ICISS's criteria for determining the appropriateness of military intervention for humanitarian purposes were removed. Third, the types of violence covered by R2P were limited to the four mass atrocity crimes, rather than the previous, less precise term "large scale loss of life". Finally, the threshold triggering the international community's responsibility was raised from a host state being "unwilling or unable" to halt violence, to the more onerous standard of "manifestly failing". As a result of these changes, the conception of R2P that was unanimously adopted by UN member states at the 2005 World Summit was a softer, less concrete version of the norm initially formulated by the ICISS.[21] Under "R2P-lite", as Weiss labelled it, military intervention in extreme cases remained

---

[19] Bellamy and Reike, *supra* note 17 at 284-85.

[20] In ICISS Roundtable discussions in June 2001 China stated that "[i]t is clear that certain Western powers have played with noble principles to serve their own hegemonic interests". See International Commission on Intervention and State Sovereignty (ICISS), "The Responsibility to Protect: Research, Bibliography, Background – Supplementary Volume to the Report of the International Commission on Intervention and State Sovereignty" (2001), online: International Development Research Centre <http://web.idrc.ca/openebooks/963-1/>, 392.

[21] *World Summit Outcome Document*, *supra* note 14 at para. 139. For discussion of this shift along the normative continuum see Jochen PRANTL and Ryoko NAKANO, "Global Norm Diffusion in East Asia: How China and Japan Implement the Responsibility to Protect" (2011) 25 International Relations 204 at 209.

an option, but there was now no guidance as to when the Security Council should authorise such action.[22]

Since 2005 discussion of R2P within the UN system has continued to centre on the less controversial aspects of preventive action and state capacity building under pillars one and two. Despite lingering resistance to R2P from some states, including China, this cautious approach eventually led to consensus within the Security Council on resolution 1674 (28 April 2006), which "reaffirmed" the World Summit's commitments on R2P.[23] The first mention of R2P in relation to a *specific* crisis occurred later in 2006 with Security Council resolution 1706 on the situation in Darfur.[24] In 2008 the preventive component of the concept played a significant role in framing the international community's response to post-election violence in Kenya, while a further resolution (1894, 2009)[25] provided additional endorsement of R2P in general terms.[26] However, throughout this period ongoing resistance to implementing R2P meant that specific references to the principle were not included in further Security Council resolutions on other crises. Instead, attention shifted from the Security Council to the General Assembly, where broader discussion of R2P could be undertaken by all UN member states. This culminated in the 2009 General Assembly debate, in which states overwhelmingly supported Secretary-General Ban Ki-Moon's report outlining the three pillars of R2P.[27] Although this outcome appeared to vindicate the Secretary General's diplomatic approach, his strategy of emphasising the preventive aspects of R2P meant that contentious issues surrounding military intervention remained unresolved.[28] This indeterminacy in pillar three enabled virtually all states to pledge support for R2P at a rhetorical level but it also papered over significant cracks between Western and non-Western states' interpretations of how R2P's military dimension should be operationalized. As discussed in part III, while the unusually explicit nature of the threat to

---

[22] Thomas G. WEISS, "R2P after 9/11 and the World Summit" (2006) 24 Wisconsin International Law Journal 741 at 750.
[23] SC Res. 1674, UN Doc. S/RES/1674 (2006).
[24] SC Res. 1706, UN Doc. S/RES/1706 (2006).
[25] SC Res. 1894, UN Doc. S/RES/1894 (2009).
[26] On the Kenyan situation see Global Centre for the Responsibility to Protect, "The Responsibility to Protect and Kenya: Past Successes and Current Challenges" (13 August 2010), online: Global Centre for the Responsibility to Protect
<http://globalr2p.org/media/pdf/The_Responsibility_to_Protect_and_Kenya_Past_Successes_and_Current_Challenges.pdf.>.
[27] See UN Docs. A/63/PV.97; A/63/PV.98; A/63/PV.99; A/63/PV.100; A/63/PV.101 (2009).
[28] On criticism of the Secretary-General's diplomatic strategy see Jennifer WELSH, "Civilian Protection in Libya: Putting Coercion and Controversy Back into RtoP" (2011) 25 Ethics and International Affairs 1 at 7.

civilians in the Libyan crisis meant that these differences were temporarily put to one side when resolution 1973 was passed, they quickly re-emerged once NATO's military campaign began.

II.   CHINA AND R2P PRIOR TO THE LIBYAN CRISIS

China's relationship with R2P has passed through a number of phases. After initially criticising the concept China has since participated in the process of articulating and refining R2P. Its role in subtly influencing, and gradually acquiescing to the development of the softer, less concrete R2P doctrine that has evolved since 2001 has been described as "neither [that of] a norm-taker, nor norm-maker, but something in between".[29] The following section briefly outlines the history of China's relationship with R2P prior to the civilian protection crisis in Libya.

Traditionally China has insisted on a rigid conception of state sovereignty, which has manifested itself both in sensitivity to outside interference in Chinese affairs, and in an historical reluctance to engage with international political and humanitarian crises.[30] In relation to the latter, Chinese foreign policy rhetoric since the 1950s has emphasised the twin principles of non-intervention in the domestic affairs of other states and non-use of military force.[31] Both of these are directly challenged by R2P's reconceptualization of sovereignty. As the original ICISS report outlined, when a state is unwilling or unable to halt or avert serious harm to civilians "the principle of non-intervention yields to the international responsibility to protect".[32] In R2P's current form this is reflected in pillars two and three, which envisage significant, potentially coercive, intrusion into a state's internal affairs.[33]

Given this incongruence between the normative basis of R2P and China's traditional adherence to a classical understanding of state sovereignty and non-intervention, initial Chinese

---

[29] Rosemary FOOT, "The Responsibility to Protect and Its Evolution: Beijing's Influence on Norm Creation in Humanitarian Areas" (2010) St Antony's International Review 47 at 59.

[30] For detailed discussion see Zhongying PANG, "China's Non-Intervention Question" (2009) 1 Global Responsibility to Protect 237; Jonathan E. DAVIS, "From Ideology to Pragmatism: China's Position on Humanitarian Intervention in the Post-Cold War Era" (2011) 44 Vanderbilt Journal of Transnational Law 217 at 224-27.

[31] These two principles form part of China's "Five Principles of Peaceful Coexistence", which are enshrined in the preamble to the Chinese Constitution. See *Constitution of the People's Republic of China*.

[32] ICISS, *supra* note 1 at 8.

[33] Welsh notes that the less controversial aspects of prevention and state assistance also entail intrusion on state sovereignty, albeit in a less dramatic form than military intervention. See Welsh, *supra* note 28 at 7.

resistance to R2P was unsurprising. During the ICISS Roundtable consultations prior to the release of the 2001 report, China explicitly rejected the notion of coercive intervention without the consent of the host state.[34] China's concerns about R2P were based primarily on its perception that the concept could be used to justify Western military intervention in non-democratic states. Following the release of the ICISS report, China continued to express misgivings about R2P, particularly in relation to the suggestion that the General Assembly or regional organisations might offer alternative mechanisms for authorising military action for civilian protection purposes. China insisted that "[a]ny response to [a humanitarian] crisis should strictly conform to the UN Charter" and 'that it falls on the Security Council to make the decision".[35] This narrow interpretation was intended to ensure that China would retain the power to block any R2P action by wielding its Security Council veto. Insistence by China and other states on *exclusive* Security Council control over the sharp edge of R2P led to such a provision being included in the 2005 World Summit Outcome document.[36]   This crucial modification enabled China to endorse R2P in that document.

Despite endorsing R2P at the World Summit in 2005 China remained cautious about R2P. It adopted a strategy of "norm containment" in which it continued to downplay the link between R2P and non-consensual military intervention.[37] China also resisted efforts by UN officials to elaborate and refine the concept of R2P, insisting that resolution 1674 (2006) be limited to a reaffirmation of the key paragraphs of the World Summit document. In line with this strategy of containment, China emphasised the preventive dimension of R2P and stressed the pillar one requirement that the primary responsibility to protect lies with the state concerned. At the same time, however, China acknowledged that the international community has a responsibility to respond to humanitarian crises. Though it continued to insist that any international action should be carried out with state consent in accordance with R2P's second pillar, China's acknowledgement of the need for external intervention represented a softening of

---

[34] ICISS, *supra* note 20 at 392.

[35] Ministry of Foreign Affairs of the People's Republic of China, "Position Paper of the People's Republic of China on the United Nations Reforms", (7 June 2005), online: Ministry of Foreign Affairs of the People's Republic of China <http://www.fmprc.gov.cn/eng/zxxx/t199318.htm>.

[36] Paragraph 139 of the *World Summit Outcome Document, supra* note 14, refers to "collective action...through the Security Council, in accordance with the Charter, including Chapter VII...".

[37] Prantl and Nakano, *supra* note 21 at 214.

its traditional rigid interpretation of the principle of non-intervention.[38] China's overall position towards R2P since 2005 has been described as "preserv[ing] the vestiges of its once firm stance on non-interference – the requirement for host state consent for collective military deployment – without appearing to completely turn a blind eye to mass atrocities".[39]

The impact of China's apparent shift towards a partial accommodation of R2P should not, however, be over-stated. Cautious rhetorical backing for R2P as a *general concept* did not always translate into Chinese support for international action in *specific* cases of human rights abuses. First, China abstained on resolution 1706 (2006) on Darfur, in which R2P was mentioned for the first time in a country-specific resolution. Second, China (and Russia) vetoed international sanctions against Myanmar (2007) and Zimbabwe (2008).[40] Interestingly, however, in these cases China did not justify its opposition to international action by reference to sovereignty and non-intervention in the internal affairs of other states; instead it emphasised that conflict resolution through political dialogue, rather than Security Council enforcement action, was the better means of achieving civilian protection.[41] China also stressed that its views on these country-specific issues were consistent with the positions of relevant regional organisations and other regional powers.[42] In these cases, pragmatism, rather than ideology, appeared to be the principal factor influencing China's stance on international action for civilian protection purposes.

China's shift towards a more flexible interpretation of state sovereignty that is capable of accommodating most aspects of R2P has been attributed to a number of factors. The first is the impact of socialisation within institutional settings at the international level.[43] China's growing participation in multi-lateral fora and negotiating processes – including those concerned with the articulation of R2P – has led to greater scrutiny of Chinese foreign policy and has increased the reputational costs of action which is perceived as obstructing international efforts at civilian

---

[38] *Ibid*., at 213.

[39] Sarah TEITT, "The Responsibility to Protect and China's Peacekeeping Policy" (2011) 18 International Peacekeeping 298 at 304.

[40] See UN Doc S/PV.5619 (2007) on Myanmar; UN Doc S/PV.5933 (2008) on Zimbabwe.

[41] Teitt, *supra* note 39 at 309.

[42] Yun SUN, "China's Acquiescence on UNSCR 1973 – No Big Deal" *International Relations and Security Network* (ISN), online: International Relations and Security Network <http://www.isn.ethz.ch/isn/Current-Affairs/ISN-Insights/Detail?lng=en&id=128200&contextid734=128200&contextid735=128197&tabid=128197>.

[43] Foot, *supra* note 29 at 60.

protection. This was particularly evident in heavy criticism in 2007 of China's position on the situation in Darfur.[44] As a result of such criticism China is now "much more concerned about national image" and "attach[es] more importance to soft power".[45] These image-related considerations have contributed to a gradual softening of the Chinese position on R2P.[46] Second, the expansion of China's overseas business interests has necessitated a more outward-looking foreign policy that is prepared to consider intervening in other states' internal affairs in order to safeguard or promote Chinese interests.[47] This has made it more difficult for China to insist on a rigid conception of state sovereignty and non-interference. Third, and closely linked to the first two factors, is the impact of China's emergence as a global power.[48] As China grows, there are expectations from other powers that it will assume a greater role in managing international crises and conflicts. Constructive engagement with civilian protection issues – through increased Chinese contributions to UN peace-keeping missions - is a key aspect of China's attempts to promote its image as a "responsible great power".[49] Although peacekeeping action carried out with the consent of a host state must be distinguished from non-consensual military intervention under R2P's third pillar, China's increasing involvement in the former is evidence of its growing voice on civilian protection issues.

Collectively, the three factors noted here contributed to China's shift towards a more accommodating stance on R2P in the period up to the Libyan intervention. However, as discussed, cautious Chinese support for R2P was based on a narrow interpretation of the concept which prioritised prevention and state capacity building carried out with host state consent. R2P's potential to give rise to non-consensual military intervention remained a significant source of concern for China. Prior to the Libyan crisis, it was assumed that China would not

---

[44] Dan GRIFFITHS, "China's balancing act over Darfur" *BBC News* (17 May 2007). online: BBC <http://news.bbc.co.uk/2/hi/asia-pacific/6665983.stm>.

[45] Chengqui WU, "Sovereignty, Human Rights and Responsibility: Changes in China's Response to International Humanitarian Crises" (2010) 15 Journal of Chinese Political Science 71 at 92.

[46] Prantl and Nakano, *supra* note 21 at 213-14.

[47] Pang, *supra* note 30 at 246. This was recently illustrated by China's massive evacuation of 32,000 of its citizens from Libya as the crisis unfolded.

[48] See generally Michael FULLILOVE, "China and the United Nations: The Stakeholder Spectrum" (2011) Summer The Washington Quarterly 63.

[49] For more on China and peacekeeping see Chin-Hao HUANG, "Principles and Praxis of China's Peacekeeping" (2011) 18 International Peacekeeping 257; Courtney RICHARDSON, "A Responsible Power? China and the UN Peacekeeping Regime" (2011) 18 International Peacekeeping 286; Jing CHEN, "Explaining the Change in China's Attitude toward UN Peacekeeping: a norm change perspective" (2009) 18 Journal of Contemporary China 157.

countenance military intervention for humanitarian purposes unless host state consent could be obtained.

III.   R2P AND THE LIBYAN CRISIS

The principle of R2P played a central role in framing the international community's response to the situation that developed in Libya in February 2011.[50] This was reflected in the language used by the Security Council throughout the crisis. First, following the Gaddafi regime's initial violent crackdown on protesters the Security Council issued a statement in which it explicitly "called on the Government of Libya to meet its responsibility to protect its population".[51] Second, on 26 February 2011 the Council unanimously adopted resolution 1970 under Chapter VII of the Charter, again expressly noting R2P by "recalling the Libyan authorities' responsibility to protect its population".[52] Acting in accordance with article 41 of the Charter this resolution imposed an arms embargo and other restrictions on travel and Libyan assets, as well as referring the situation to the International Criminal Court. Finally, and most dramatically, on 17 March 2011 the Security Council passed resolution 1973, with ten affirmative votes and abstentions from China, Russia, Brazil, India and Germany.[53] This established a no-fly zone and authorised member states to take "all necessary measures to protect civilians and civilian populated areas under threat of attack" while "excluding a foreign occupation force of any form on any part of Libyan territory".[54] Once again, R2P was explicitly mentioned: resolution 1973 reiterated "the responsibility of the Libyan authorities to protect the Libyan population". Shortly after the passage of the resolution a coalition of states under NATO control began military action against Libyan targets.

The Security Council's action on Libya was unprecedented in two important respects.[55] First, it represented the first time the Council had authorised the use of force for civilian protection purposes against the wishes of a host state. This authorisation was crucial because it

---

[50] For a detailed account of events leading up to NATO's military intervention in Libya see Paul D. WILLIAMS, "Briefing: The Road to Humanitarian War in Libya" (2011) 3 Global Responsibility to Protect 248.
[51] *Security Council Press Statement on Libya*, UN Doc. SC/10180 (2011).
[52] SC Res. 1970, UN Doc. S/RES/1970 (2011).
[53] UN Doc. S/PV.6498 (2011).
[54] SC Res. 1973, UN Doc. S/RES/1973 (2011).
[55] Welsh, *supra* note 28 at 1.

provided a clear legal basis for the *initiation* of military action.[56] Second, the speed with which concrete international action was taken was remarkably rapid by Security Council standards. At first glance these two features may be seen as promising signs of the international community's ability to respond decisively to humanitarian emergencies. However, closer examination suggests that a highly unusual, perhaps exceptional, confluence of factors produced a "perfect storm" in relation to the implementation of R2P in Libya.[57]

The first key factor which influenced international action on Libya was the clarity and immediacy of the threat to the civilian population.[58] The risk of mass atrocity crimes was clearly identified by senior UN officials during February and March 2011, and crystallised as Gaddafi forces surrounded the town of Benghazi. It was subsequently confirmed by Gaddafi's own statements that "officers have been deployed in all tribes and regions so that they can purify all decisions from these cockroaches", and that "any Libyan who takes arms against Libya will be executed".[59] Such explicit threats of violence were highly unusual but created a clear and urgent need for international action.

A second important factor was the defection of members of the Gaddafi government. Several prominent figures, including Libya's ambassador to the UN, condemned the violence against protesters and called on the Security Council to deliver a "decisive, rapid and courageous resolution".[60] These defections contributed to Gaddafi's isolation and increased pressure on the international community to take action.

---

[56] Separate questions over the legality of NATO's use of force arose *later* in relation to the scope of the mandate in resolution 1973. See Mehrdad PAYANDEH, "The United Nations, Military Intervention, and Regime Change in Libya" (2012) 52 *Virginia Journal of International Law* 355; Donald ROTHWELL, "Responsibility to protect, not reason to invade" *The Drum Opinion* (21 April 2011), online: The Drum <www.abc.net.au/unleashed/97706.html>.

[57] The term "perfect storm" in relation to the Libyan intervention was used by Tim Dunne, "Libya and R2P: Norm consolidation or perfect storm?" *The Interpreter* (14 April 2011), online: The Interpreter <www.lowyinterpreter.org/post/2011/04/15/Libya-R2PA-perfect-storm-.aspx>; "Libya and R2P: A perfect storm?" *The Interpreter* (15 April 2011), online: The Interpreter <www.lowyinterpreter.org/post/2011/04/15/Libya-R2PA-Norm-consolidation-or-perfect-storm.aspx>.

[58] Bellamy and Williams, *supra* note 3 at 838-39.

[59] "Defiant Gaddafi issues chilling call" *Australian Broadcasting Corporation* (23 February 2011), online: ABC <http://www.abc.net.au/worldtoday/content/2011/s3146582.htm>.

[60] AFP, "Libyan ambassador jolts UN into action" *The Age* (26 February 2011), online: The Age <http://www.theage.com.au/world/libyan-ambassador-jolts-un-into-action-20110226-1b92k.html>.

The third, and most crucial, factor which provided the impetus for military action in Libya was the presence of regional consensus on the need for external intervention.[61] Gaddafi's unpopularity in the Arab world meant that the Arab League, the Gulf Cooperation Council and the Organisation of the Islamic Conference all condemned the violence in Libya and suspended Libya from those organisations. This was followed on 12 March 2011 by the Arab League passing a resolution which expressly called for a no-fly zone to protect civilians.[62] Although the African Union (AU) was opposed to international intervention there was support from the Security Council's three African members, Nigeria, Gabon and South Africa. This regional consensus was the "political game-changer", which "fram[ed] the issues and defin[ed] the range of feasible international action".[63] As discussed in part IV, this factor was particularly influential in relation to China's decision to allow the passage of resolution 1973.

The combined effect of these three factors was that China, Russia and the other BRIC members (Brazil and India) of the Security Council who retained misgivings about using force in Libya were boxed in. Given the gravity and immediacy of the threat to civilians, blocking a resolution would have attracted significant criticism and damaged their international reputations. Faced with those consequences China, Russia, Brazil, India and Germany decided to abstain from voting on resolution 1973. Bellamy and Williams conclude that these states "abstained because they believed that they could not legitimize inaction in the face of mass atrocities".[64] In this regard, although passage of resolution 1973 provided a clear legal basis for the initiation of military action against Libya, under the surface there remained divisions between Security Council members over R2P.

These R2P fault-lines are evident from the wording of the Security Council's resolutions and statements on Libya. While both Security Council resolutions and the earlier press statement expressly noted *Libya's* responsibility to protect, it is significant that none specifically mentioned the *international community's* responsibility (though such a responsibility is assumed or implied). Despite the Libyan crisis appearing to present a textbook case of a state "manifestly

---

[61] For a detailed account of the positions taken by regional organisations and states see Bellamy and Williams, *supra* note 3 at 838-46.
[62] See *Letter dated 14 March 2011 from the Permanent Observer of the League of Arab states to the United Nations addressed to the President of the Security Council*, UN Doc. S/2011/137 (2011).
[63] Bellamy and Williams, *supra* note 3 at 841.
[64] *Ibid*., at 844.

failing to protect its population" it seems that the international community remained uncomfortable with explicitly affirming its own responsibility to protect under R2P's third pillar. This reluctance was most likely based on fears that such an acknowledgement might imply the existence of a *legal* obligation to take similar action in future cases concerning mass atrocities. Welsh interprets this omission from resolution 1973 as an indication "that the latter notion [of the *international community's* responsibility] was still contested by some members of the Security Council as an appropriate rationale for military action".[65] This suggests an unwillingness to lay down explicit markers which would establish Libya as a precedent for R2P's third pillar. In this respect, the Security Council's resolutions on Libya do not represent as complete an endorsement of R2P as some of the principle's advocates might have hoped for.

IV. CHINA AND R2P IN THE LIBYAN CRISIS

Close examination of China's engagement with R2P in the lead-up to NATO's intervention in Libya does not reveal any normative shift towards greater acceptance of the concept. Although China supported resolution 1970 and allowed the passage of resolution 1973, these decisions were prompted by the unusual set of political and factual considerations discussed in part III, rather than by any softening of Chinese resistance to R2P's third pillar. This is the clear message that emerges from China's explanation of the reasons for its abstention from voting on resolution 1973.

In explaining its decision to abstain, China offered a number of statements which suggested continuity, rather than change, in its approach to R2P and intervention more broadly. First, China's declarations that it "is always against the use of force", and had "serious difficulty with parts of the resolution", were a clear indication that it was opposed to non-consensual military intervention in Libya.[66] Consistent with its traditional rhetorical emphasis on the non-use of force, China's preference was for resolution of "the current crisis in Libya through peaceful means".[67] Second, China stressed that it "attaches great importance to the relevant position by the 22-member Arab League... [and] to the position of African countries and the

---

[65] Welsh, *supra* note 28 at 1.
[66] UN Doc S/PV.6498 (2011), at 10.
[67] *Ibid*.

African Union".[68] This express acknowledgement of the crucial influence of regional players was in keeping with China's broader strategy of seeking to avoid international isolation on questions relating to international peace and security. It also lends weight to Bellamy's and Williams' suggestion that regional organizations have become "gatekeepers" on civilian protection: their positions on a particular situation can either facilitate or prevent consensus within the Security Council.[69] A third statement of note in China's explanation of its abstention was a reference to the "special circumstances surrounding the situation in Libya".[70] This pointed to a deliberate Chinese strategy of emphasising the unique nature of the crisis in order to avoid Libya being viewed as a precedent for future civilian protection operations. Overall, China's explanation of its abstention from voting on 17 March 2011 revealed serious misgivings about resolution 1973, indicating a continuation of its previous cautious position on R2P.

China's subsequent sharp criticism of the manner in which NATO's military campaign has been carried out suggested that the Libyan crisis may, in fact, lead to a hardening of Chinese resistance to R2P, at least in the short term. Three separate lines of criticism emerged. First, almost immediately after military action in Libya began China expressed concerns over civilian casualties caused by NATO bombing and called for an immediate ceasefire.[71] This initial ground for criticism later gave way to a second area of concern: the interpretation of resolution 1973.[72] As the extent of NATO's military campaign became apparent, China and the other BRIC states accused Western powers of exceeding the mandate provided by the resolution. Instead of limiting the use of force to the protection of civilians, as required under the resolution, NATO's targeting of the Gaddafi government and provision of arms to rebel forces was perceived as an attempt at regime change. In response to these concerns China stressed the need for a "complete and strict implementation of the relevant resolutions of the Security Council".[73] Chinese fears that R2P could be used to disguise ulterior motives were expressed more explicitly later in the Security Council's May 2011 thematic debate on the protection of civilians in armed conflict: there, China bluntly warned that "[t]here must be no attempt at regime change ... under

---

[68] *Ibid*.
[69] Bellamy and Williams, *supra* note 3 at 847.
[70] UN Doc S/PV.6498 (2011), at 10.
[71] Simon TISDALL, "The consensus on intervention in Libya has shattered" *Guardian* (23 March 2011).
[72] See Payendeh, *supra* note 56 at 29-36.
[73] UN Doc S/PV.6528 (2011), at 10.

the guise of protecting civilians".[74] A third line of criticism appeared to question even whether R2P was applicable to the Libyan situation. In an apparent return to a more rigid interpretation of the principle of non-intervention, China expressed its disapproval of "involvement in civil war by any party" and stated that the "internal affairs and fate of Libya must be left up to the Libyan people to decide".[75] Although China acknowledged that "[t]he responsibility to protect civilians lies first and foremost with the Government of the country concerned" it did so as a warning against outside interference under R2P's third pillar, rather than as a reaffirmation of its support for R2P.[76] These three lines of criticism have been used by China and other non-Western states as part of a strategy of questioning the legitimacy of the Libyan intervention. Viewed together, they indicate that NATO's military action in Libya has reignited long-standing fears among some states that R2P could be relied on by Western powers as a pretext for the removal of unfriendly governments.

The May 2011 Security Council debate on the protection of civilians offered two additional signs that the Libyan experience might trigger renewed Chinese efforts to contain R2P's normative development. The first emerged from China's comment that "conflict situations vary, and there must be no one-size-fits-all approach to the protection of civilians".[77] This was a further illustration of China's deliberate efforts to downplay the significance of the Libyan intervention as a precedent for international responses to other crises. The second key feature of China's strategy was an attempt to influence the manner and pace at which R2P is articulated and implemented within the UN system. This was evident from China's pointed reminder to the Security Council that "[v]arious parties still hold divergent views on the responsibility to protect, and the General Assembly should continue its discussion on this matter".[78] By calling for further consideration of R2P to be carried out within the General Assembly, China was seeking to slow the development of the concept and reduce the Security Council's potential to operationalize R2P in other civilian protection situations. China's overall strategy of constraining R2P's implementation has been a central factor in the international community's failure to agree on steps to address violence in Syria in the post-Libya period.

---

[74] UN Doc S/PV.6531 (2011), at 20.
[75] UN Doc S/PV.6528 (2011), at 10.
[76] UN Doc S/PV.6531 (2011), at 21.
[77] *Ibid*.
[78] *Ibid*.

V.   R2P AND SYRIA

The international community's inability to agree over an appropriate response to violence against pro-democracy demonstrators in Syria provides a marked contrast to its swift, decisive intervention in Libya. Several months of intense discussions between Security Council members have failed to produce agreement on collective action against the Assad government. Much of the optimism surrounding R2P in the immediate aftermath of resolution 1973 on Libya has been replaced by a realisation that achieving international consensus on civilian protection measures will rarely be straightforward.[79]

The crucial factor behind the lack of Security Council action against Syria has been Chinese and Russian opposition to collective measures against the Assad regime.[80]   Concerns over the way military intervention in Libya unfolded have prompted China and Russia to strongly resist Western proposals to respond to the violence in Syria. This "blow-back" from the Libyan experience is most clearly illustrated by Chinese and Russian vetoes of two draft Security Council resolutions on Syria. The first of the double vetoes came on 4 October 2011, when China and Russia blocked a proposed resolution sponsored by the UK, France, Germany and Portugal.[81]   Vetoes were cast despite the fact that the draft resolution was relatively weak: it merely condemned the ongoing violence and warned of *possible* sanctions against Syria if civilian casualties continued.[82]

Statements made by Security Council members in the aftermath of the 4 October vote highlighted the extent of divisions between Western and non-Western states over appropriate civilian protection measures in Syria. In explaining its decision to veto the draft resolution, China echoed its traditional opposition to intervention in states' internal affairs, and to the use of

---

[79] At the time of finalising this article, the Assad government had indicated it would accept a six point peace plan formulated by Joint Special Envoy for the United Nations and the Arab League, Kofi Annan. See UN Doc S/PRST/2012/6 (2012). However, doubts remain over whether the initiative will actually be implemented or prove effective in resolving the crisis. See Ian BLACK, "Syria's nod to UN peace plan greeted with scepticism" *Guardian* (27 March 2012).

[80] Mark KERSTEN, "No Surprise: Why Libya but not Syria" *Opinio Juris* (5 October 2011), online: Opinio Juris <http://opiniojuris.org/2011/10/05/no-surprise-why-libya-but-not-syria/>.

[81] See UN Doc S/PV.6627 (2011). There were nine votes in favour (Bosnia and Herzegovina, Colombia, France, Gabon, Germany, Nigeria, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America), two against (China, Russia), and four abstentions (Brazil, India, Lebanon, South Africa).

[82] See UN Doc S/2011/612 (2011).

forceful or confrontational approaches. On the former, it emphasised the need for any Security Council action to comply with "the Charter of the United Nations and the principle of non-interference in the internal affairs of States".[83] In relation to the latter, China stressed its belief that "under the current circumstances, sanctions or the threat thereof does [sic] not help to resolve the question of Syria and instead, may further complicate the situation".[84] While Chinese statements did not expressly refer to NATO's military action in Libya, Russia drew a direct link between concerns over R2P in the Libyan case and its opposition to the draft resolution on Syria. Moscow asserted that "[t]he international community is alarmed by statements that compliance with Security Council resolutions on Libya in the NATO interpretation is a model for the future actions of NATO in implementing the responsibility to protect".[85] Russia warned that it "is easy to see that today's "Unified Protector" model could happen in Syria" and that "[t]hese types of models should be excluded from global practices once and for all".[86]

Following the failure of the Arab League's observer mission to Syria, on 4 February 2012 the Security Council voted on a second draft resolution.[87] Again, China and Russia exercised their vetoes. On this occasion "no" votes were cast despite the proposed resolution explicitly providing "that nothing in this resolution authorizes measures under Article 42 of the Charter".[88] China and Russia were prepared to block the resolution despite it receiving support from all of the other thirteen Security Council members. Interestingly, India and South Africa, which had abstained on the first Syria draft resolution in October 2011, both voted in favour of the second draft resolution.[89]

China's comments after the second double veto contained similar language and themes to those used following the first failed resolution in October 2011. Immediately after the Security Council vote, China justified its veto on the basis that any international action "should comply with the purposes and principles of the Charter" and that collective measures should not

---

[83] *Ibid.*
[84] UN Doc S/PV.6627 (2011), at 5.
[85] *Ibid.*, at 4.
[86] *Ibid.*
[87] UN Doc S/2012/77 (2012).
[88] *Ibid.*, at 1.
[89] See UN Doc S/PV/6711 (2012). Note also that on 21 February 2012 a similarly-worded resolution on Syria was adopted by the UN General Assembly: UN Doc A/RES/66/253 (2012).

"complicate the issue".[90] In addition, an explicit reference to Chinese concerns over the Libyan intervention appeared in the leading Communist party newspaper, the People's Daily, which declared that "Libya offers a negative case study. Nato abused the security council [sic] resolution about establishing a no-fly zone and directly provided firepower to one side in the Libyan war".[91]

Western states responded angrily to the vetoes by China and Russia. Following the October 2011 vetoes the United States accused "some members of the [Security] Council of prevent[ing] us from taking a principled stand against the Syrian regime's brutal oppression of its people".[92] With some justification, France labelled it "a veto on principle, which means that it is a refusal of all Security Council resolutions against Syria".[93] Meanwhile, the UK expressed disappointment that the resolution had been blocked despite the fact that "[b]y including reference to Article 41 of the Charter, we made it clear that any further steps would be non-military in nature".[94] Similar but even more vehement criticism was directed at Russia and China following the blocking of the second draft resolution in February 2012.[95]

The Chinese and Russian decisions to veto the two draft resolutions on Syria were a clear diplomatic riposte to the West for what they perceive was NATO's use of R2P as a pretext for removing the Gaddafi regime. As one analyst put it in the aftermath of the first failed resolution, the vetoes were Beijing and Moscow's way of saying we "will not fall for that trick again".[96] Vetoes were cast even though the two draft resolutions represented "watered-down" versions of earlier proposals. Neither text contained a trigger for automatic sanctions, nor was there any risk that they could open the door to military intervention.[97] In blocking even the mere *possibility* of *non-forcible* action against Syria, the stance taken by China and Russia went beyond their traditional misgivings about R2P's military dimension.

---

[90] *Ibid*., at 9.
[91] Quoted in "China defends Syria veto in People's Daily article" *Guardian* (6 February 2012).
[92] UN Doc S/PV.6627 (2011), at 9.
[93] *Ibid*., at 3.
[94] *Ibid*., at 7.
[95] UN Doc S/PV/6711 (2012).
[96] Walter Russell MEAD, "The Wilsonian World Order Has Once Again Been Postponed" *The American Interest* (5 October 2011), online: The American Interest <http://blogs.the-american-interest.com/wrm/2011/10/05/the-wilsonian-world-order-has-once-again-been-postponed/>.
[97] See UN Doc S/2011/612 (2011).

Concerns over the way R2P was implemented in Libya were clearly a major factor underpinning China's opposition to Security Council action on Syria. However, there is an alternative perspective on why China blocked civilian protection measures in this situation. This suggests that Beijing's rejection of the two draft resolutions might reflect China's adherence to a very narrow interpretation of when the international community should become involved in civilian protection crises. According to this account, China may believe that because the Assad government has remained largely intact – unlike the Gaddafi regime which quickly fragmented – there is still a possibility that the Syrian state could restore stability and ensure civilian protection.[98] In such circumstances, China may favour giving the state an opportunity to re-establish security. In Beijing's eyes, Security Council pressure on a state under strain would be counter-productive, as it has argued in relation to Syria.

It is unclear whether Beijing has, in fact, relied on the "intact state" perspective to draw a distinction between the Syrian and Libyan situations. China has not *expressly* referred to this factor, though it might be possible to infer such a view from statements that the international community "should give peace a chance in Syria".[99] If China *does* subscribe to a very strict interpretation of "manifestly failing to protect" – the point at which the responsibility to protect passes from the host state to the international community - this would significantly narrow the scope and application of R2P's third pillar. It would also represent a major difference between Chinese and Western interpretations of R2P.

Overall, the international community's inability to agree on any collective action in Syria suggests that the Libyan model of robust intervention for civilian protection purposes is unlikely to be replicated in the near future. Operationalization of R2P in Libya was made possible by an unusual alignment of political factors, rather than by a sudden normative shift in favour of the concept. In fact, the immediate post-Libya backlash from China and several other non-Western states is evidence that R2P's potential to act as a guiding principle for the Security Council's responses to civilian protection crises has been undermined by the Libyan experience.

---

[98] I am grateful to one of the anonymous reviewers for suggesting this alternative view of China's approach to R2P in the Syria situation.

[99] This statement was made by the Chinese ambassador to the United Kingdom, in an opinion piece in the Guardian newspaper: Liu XIAOMING, "China believes Syria needs a peaceful solution" *Guardian* (9 February 2012).

VI.   CHALLENGES FOR R2P

R2P faces a number of significant challenges in the aftermath of the Libyan intervention. The first is managing the political fall-out from Libya. The perception that NATO exceeded its mandate on Libya has given renewed weight to long-standing fears among non-Western states over R2P's potential to act as cover for regime change. Brazil's recently released concept note on R2P warned that "[t]his perception may make it even more difficult to attain the protection objectives pursued by the international community".[100] In describing the current climate around R2P India's ambassador to the UN stated more bluntly that "Libya has given R2P a bad name".[101] Reassuring the BRIC states that R2P is about protecting civilians from mass atrocity crimes, as opposed to removing unfriendly governments, will be a key step in bolstering R2P's legitimacy. A renewed diplomatic focus on R2P's less controversial aspects of prevention and state capacity building is a sensible strategy for R2P advocates to pursue in the short term.

A second, closely related challenge lies in addressing fundamental conceptual and operational issues about the relationship between civilian protection and regime change.[102] Leaving aside specific questions over the way in which NATO interpreted its mandate on Libya, there is a need for general clarification of whether and if so, how R2P intervention to protect civilians from state-perpetrated violence can be carried out effectively without also resulting in the removal of that government. One commentator has suggested that '[t]he demise of a regime responsible for the mass atrocities that trigger an R2P intervention is logically inevitable".[103] Even strong supporters of R2P have acknowledged that third pillar military intervention will involve a blurring of the lines between civilian protection and other goals such as removal of

---

[100] *Letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General – Responsibility while protecting: elements for the development and promotion of a concept*, UN Doc. A/66/551-S/2011/701 (2011), para. 10.

[101] Phillipe BOLOPION, "After Libya, the question: To protect or depose?" *Los Angeles Times* (25 August 2011), online: Los Angeles Times <http://articles.latimes.com/2011/aug/25/opinion/la-oe-bolopion-libya-responsibility-t20110825>.

[102] Bellamy and Williams, *supra* note 3 at 847-48.

[103] Kevin BOREHAM, "Libya and the 'Responsibility to Protect' Doctrine" *Online Opinion* (26 August 2011), online: Online Opinion <http://www.onlineopinion.com.au/view.asp?article=12522>.

oppressive governments.[104]   Clarifying this vital issue of the relationship between civilian protection and other strategic goals is an urgent priority for R2P.

To this end a renewed debate about criteria for the legitimacy of the use of force is needed. The failure, thus far, to adopt any guidelines on Security Council decision-making in the humanitarian context has resulted in R2P's third pillar remaining largely indeterminate. The absence of clear standards governing when and how the international community should respond means that civilian protection measures are "contingent on the will of the Security Council and this will is heavily contingent on political exigencies".[105] Security Council deadlock over Syria is a clear illustration of this deficiency. In order to reduce the potential for politicisation to paralyse the Security Council the criteria suggested in the original ICISS report and in the 2004 High Level Panel Report should be revisited.[106] Reaching agreement among P5 members on a set of standards is by no means a straightforward task, but it will be a key step towards enhancing the Security Council's ability to respond to R2P situations in a timely and consistent manner.[107]

A final challenge relates to the drafting and interpretation of Security Council mandates on civilian protection issues.[108] Controversy over the scope of resolution 1973's mandate for the use of force in Libya is likely to complicate future negotiations between Security Council members over the text of resolutions. From now on, China and the other BRIC states will almost certainly insist on clearer, stricter provisions governing the objectives, means and duration of any military intervention.[109] Therefore, even in the event of broad agreement between states on the need for military action for civilian protection purposes it may be difficult to reach consensus on the specific wording of a resolution that would authorise such use of force.

---

[104] Bellamy and Williams, *supra* note 3 at 849.
[105] Aidan HEHIR, "The responsibility to protect in international political discourse: encouraging statement of intent or illusory platitudes" (2011) 15 International Journal of Human Rights 1331 at 1343.
[106] See ICISS, *supra* note 1 at xii; *A More Secure World: Our Shared Responsibility*, UN Secretary-General's High Level Panel on Threats, Challenges and Change, UN Doc. A/59/565 (2004), para. 207.
[107] On proposals to enhance Security Council decision-making in R2P situations see Ariela BLATTER and Paul D. WILLIAMS, "The Responsibility Not to Veto" (2011) 3 Global Responsibility to Protect 301; Daniel H. LEVINE, "Some Concerns About 'The Responsibility Not to Veto'" (2011) 3 Global Responsibility to Protect 323.
[108] Bellamy and Williams, *supra* note 3 at 847.
[109] *Ibid*.

These three challenges to R2P are unlikely to be resolved easily or quickly. They represent significant fault-lines between Western powers and some non-Western states which threaten to stall R2P's normative development. In the short term, at least, the prospect of consensus on further UN-authorised military interventions for civilian protection purposes seems slim.

VII.   CONCLUDING COMMENTS

The international community's swift and decisive intervention in Libya initially raised hopes of a new era of cooperation on civilian protection. However, closer examination of the Libyan case suggests it was the result of an unusual alignment of political factors, rather than a fundamental shift in states' attitudes which consolidates R2P's normative status. Subsequent concerns over the way R2P was implemented in Libya appear to have confirmed the original suspicions of non-Western states that the concept may be used as a pretext for regime change. This has produced a "blow-back" effect in relation to Syria, which has undermined R2P's capacity to provide the impetus for international action on civilian protection issues. Overall, Libya may be a case of "one step forward, two steps back" for R2P.

For China specifically, the Libyan experience may signal the beginning of a third phase in Beijing's relationship with R2P, following its initial strong criticism, and then subsequent cautious endorsement of a conservative interpretation of the concept. Judging by China's stance on Syria, this third stage will be characterised by strong resistance to attempts at further implementation of R2P. China has already shown its willingness to exercise its veto by blocking proposals for civilian protection measures against the Assad regime. Beijing's renewed concerns about R2P since the Libyan intervention are shared by a number of non-Western states, meaning Chinese efforts to constrain R2P's future implementation are likely to be firmly backed by those other states. This support may allow China to pursue such a strategy without the risk of being isolated, and at a lower cost to its international reputation.

The crucial question for the future of R2P's third pillar is whether the political, conceptual and operational challenges that have arisen in the aftermath of the Libyan intervention can be resolved. While the current evidence suggests that divisions between

Western powers and some non-Western states over R2P are unlikely to disappear quickly, the principle has survived previous periods of strong resistance during its short history, and may do so again.